

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Application by Qwest Communications)
International, Inc., for Provision of In-)
Region, InterLATA Services in the) **WC Docket No. 02-314**
States of Colorado, Idaho, Iowa,)
Montana, Nebraska, North Dakota,)
Utah, Washington, and Wyoming.)

COMMENTS
OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Raymond L. Gifford
Chairman

Polly Page
Commissioner

Jim Dyer
Commissioner

Public Utilities Commission
State of Colorado
1580 Logan Street, OL2
Denver, CO 80203
(303) 894-2000
puc@dora.state.co.us

DATED: October 15, 2002

On September 30, 2002, Qwest Communications International, Inc. (Qwest), filed a joint application for authorization to provide in-region, interLATA service in nine states, one of which is Colorado. This is the second Colorado-related application filed by Qwest pursuant to § 271 of the federal Communications Act of 1934, as amended (the Act), 47 U.S.C. sec. 271.¹ On September 30, 2002, the Federal Communications Commission (Commission) issued a Public Notice concerning this nine-state application and asked for comments by October 15, 2002. The Colorado Public Utilities Commission (COPUC) now files its comments in response to the Commission's Public Notice.

In WC Docket No. 02-148 the COPUC urged the Commission to grant the Qwest application for Colorado. In that docket we filed the *COPUC Evaluation*, the *COPUC Reply Comments*, the *COPUC Supplemental Comments*, and the *COPUC Supplemental Reply Comments*. We incorporate those comments by reference.² For the reasons stated in those filings, which we will not repeat here, the Commission should grant the Qwest Colorado § 271 application without delay. The consuming public in Colorado should be kept waiting no longer.

In WC Docket No. 02-148 there were two areas which generated considerable comment: Qwest's compliance with § 272(b)(2) of the Act and the unfiled agreements issue. The COPUC will comment on each of these areas.

¹ The previous proceeding was WC Docket No. 02-148. Qwest withdrew that proceeding on September 10, 2002.

² The Commission discussed incorporating comments from WC Docket No. 02-148 by reference in the Public Notice at 2.

The issues surrounding Qwest's compliance with § 272 came to the fore after the COPUC had concluded its investigation into, and had closed its record with respect to, Qwest's compliance with § 271. The issues that prompted the most comment were not raised, and therefore not addressed, in the Colorado proceeding because they came to light after the close of our investigation. The COPUC did not conduct further inquiry into the § 272-related issues following the termination of WC Docket No. 02-148. As a consequence, we have no comment on this issue beyond that contained in our filings in WC Docket No. 02-148.

Turning to the unfiled agreements, the COPUC has continued its investigation in this area. The COPUC has conducted its investigation in two phases.

One phase began on August 21 and 22, 2002 when Qwest filed 11 applications for approval of interconnection agreement (ICA) amendments. Each application contained one or more agreements with a single Competitive Local Exchange Carrier (CLEC) authorized to provide service in Colorado. All told, Qwest submitted approximately 16 agreements for COPUC review and approval. We opened dockets to consider each of these filings to determine if the document is an interconnection agreement and, if it is, to determine whether to approve or to reject it. Following the statutory language and the guidance provided by the Commission in its recent decision,³ the COPUC will develop a working definition of interconnection agreement and, using that definition, will review

³ See *Memorandum Opinion and Order*, WC Docket No. 02-89, at ¶¶ 7-14.

each of the Qwest-filed agreements.⁴ The COPUC will complete this review within the timeframe established in the Act.

The other phase began in February 2002 with the COPUC Staff's collecting documents from Qwest and from CLECs. During this informal investigation, the COPUC Staff has read, and continues to review, over 130 documents. Based on its assessment, the COPUC Staff may take one or more of several actions, among them: ask the COPUC to commence enforcement actions, ask the COPUC to open a general investigation docket, or inform the COPUC of the results of Staff's informal investigation but seek no further action. We will consider how to proceed when we have our Staff's recommendation.

The COPUC urges the Commission to approve the § 271 application of Qwest, at least insofar as it relates to Colorado. Nothing in this application causes us to change our recommendation that this Commission should approve Qwest's application to provide in-region, interLATA service in Colorado. The record before the COPUC supports our determination that the local telecommunications market in Colorado is, and will remain, open to competition and that Qwest has met the requirements of § 271 of the Act. There is no reason to deprive Colorado citizens of the benefits of increased long distance and local exchange competition that will be spurred by Qwest's entry into the long distance market. The Commission should approve the application and permit Qwest to enter the long distance market.

⁴ For a full discussion of the COPUC's approach and for a timetable for resolution of the issues presented, *see COPUC Procedural Order* (appended to these comments as Attachment 1).

The Commission should grant the Qwest § 271 application without further delay.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

Respectfully submitted,

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

Chairman

POLLY PAGE

Commissioner

JIM DYER

Commissioner

INDEX OF FULL CITATIONS

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| COPUC Orders and Materials | |
| <i>COPUC Evaluation</i> | <i>In the Matter of Application by Qwest Communications International, Inc., for Provision of In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska, and North Dakota</i> , WC Docket No. 02-148, Evaluation of the Colorado Public Utilities Commission (July 2, 2002). |
| <i>COPUC Procedural Order</i> | <i>In the Matter of the Petition of MFS Communications Company, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Interconnection Rates, Term, and Conditions with U S WEST Communications, Inc.</i> ; and ten other proceedings, Dockets No. 96A-287T, No. 97T-507, No. 98T-042, No. 98T-519, No. 99T-040, No. 99T-067, No. 99T-598, No. 00T-064, No. 00T-277, No. 01T-013, and No. 01T-019, Order Requesting Comment, Decision No. C02-1044, (mailed September 20, 2002). |
| <i>COPUC Reply Comments</i> | <i>In the Matter of Application by Qwest Communications International, Inc., for Provision of In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska, and North Dakota</i> , WC Docket No. 02-148, Reply Comments of the Colorado Public Utilities Commission (July 29, 2002). |
| <i>COPUC Supplemental Comments</i> | <i>In the Matter of Application by Qwest Communications International, Inc., for Provision of In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska, and North Dakota</i> , WC Docket No. 02-148, Supplemental Comments of the Colorado Public Utilities Commission (August 28, 2002). |

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| <i>COPUC Supplemental Reply Comments</i> | <i>In the Matter of Application by Qwest Communications International, Inc., for Provision of In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska, and North Dakota, WC Docket No. 02-148, Supplemental Reply Comments of the Colorado Public Utilities Commission (August 30, 2002).</i> |
| FCC Orders | |
| <i>Memorandum Opinion and Order</i> | <i>In the Matter of Qwest Communications International, Inc., Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Agreements under Section 252(a)(1), WC Docket No. 02-89, Memorandum Opinion and Order, FCC 02-276 (rel. Oct. 4, 2002).</i> |